

PARTNERSHIP AGREEMENT

BETWEEN

THE U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION

AND

**SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION, DIVISION OF
LABOR AND MANAGEMENT**

The United States Department of Labor, Wage and Hour Division (hereinafter referred to as "WHD" or "Department"), and the **South Dakota Department of Labor and Regulation, Division of Labor and Management** (hereinafter referred to as **SDDLRL**) (collectively referred to as "the agencies" or "the parties") recognize the value of establishing a collaborative relationship to promote compliance with laws of common concern among the regulated community in the State of South Dakota. The agencies are forming this partnership to more effectively and efficiently communicate and cooperate on areas of common interest, including cross training staff, providing employers and employees with compliance assistance information towards the goal of protecting the wages, safety, and health of America's workforce and conducting joint investigations and sharing information as appropriate.

WHD is responsible for administering and enforcing federal labor laws, including the Fair Labor Standards Act, the Family and Medical Leave Act, the Migrant and Seasonal Agricultural Worker Protection Act, worker protections provided in several temporary visa programs, and the prevailing wage requirements of the Davis-Bacon and Related Acts and the Service Contract Act. WHD enters into this MOU under the authority provided by 29 U.S.C. § 211(b), which authorizes DOL to cooperate with State agencies charged with the administration of State labor laws. Nothing in this agreement limits the Wage and Hour Division's enforcement of these statutes. Wage and Hour Southwest Regional Office has jurisdiction over the State of South Dakota.

The Division of Labor and Management is responsible for administering and enforcing **South Dakota** labor laws. Its mission is to responsively provide dispute resolution and help people through investigations, enforcement, compliance and education of workforce and discrimination laws. Staff in the division help settle problems between employers and workers; enforce wage and hour and child labor laws; administer the Human Rights Division in South Dakota; answer questions about state and federal employment laws; and administer the state's workers' compensation system.

With the specific and mutual goals of providing clear, accurate, and easy-to-access outreach to employers, employees, and other stakeholders, on wage and hour enforcement and of sharing resources and enhancing enforcement by conducting joint investigations and sharing information, the parties agree to enter into this partnership.

The parties agree as follows:

Agency Responsibilities

Outreach and Education

- The agencies agree to coordinate, conduct joint outreach presentations, and prepare and distribute publications, when appropriate, for the regulated community of common concern.
- The agencies agree to work with each other to provide a side-by-side comparison of laws with overlapping provisions and jurisdiction.
- The agencies agree to provide a hyperlink on each agency's website linking users directly to the outreach materials in areas of mutual jurisdiction and concern.
- The agencies agree to jointly disseminate outreach materials to the regulated community, when appropriate.
- All materials bearing the DOL or WHD name, logo, or seal must be approved in advance by DOL.

Contacts

- The agencies will designate a contact person responsible for coordinating the partnership activities.
- The agencies will designate a representative to meet annually to review areas of mutual concern and the terms and conditions of the partnership.

Enforcement

- The agencies may coordinate their respective enforcement activities and assist each other with enforcement, where appropriate and to the extent allowable under law.
- The agencies may make referrals of potential violations of each others statutes, where appropriate.

Information

- The agencies agree to exchange information on laws and regulations of common concern to the agencies, to the extent practicable.
- The agencies may establish a methodology for exchanging investigative leads, complaints, and referrals of possible violations, to the extent allowable by law or policy.

- The agencies may exchange information (statistical data) on incidence of violations in specific industries and geographic areas, if possible.

Training

- The agencies agree to cross train investigators and other staff no less than once per calendar year, subject to agency resources. Joint training will be conducted to educate staff members of both agencies about the laws and regulations enforced by both, and to discuss issues of common concern.
- The agencies may exchange information related to policy or regulatory changes to State or Federal laws, to the extent permissible.

Effect of Agreement

- This agreement does not authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligations.
- By entering into this partnership, the agencies do not imply an endorsement or promotion by either party of the policies, programs, or services of the other.
- Nothing in this agreement is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory functions.
- This agreement is not intended to be legally binding and does not confer any rights on any private person.
- Nothing in this agreement will be interpreted as limiting, superseding, or otherwise affecting the parties' normal operations. This agreement also does not limit or restrict the parties from participating in similar activities or arrangement with other entities.
- This agreement will be executed in full compliance with the Privacy Act of 1974, the Freedom of Information Act, the Federal Records Act and any other applicable federal or state laws.

Exchange of Information

- It is the policy of WHD to cooperate with other government agencies to the fullest extent possible under the law, subject to the general limitations that any such cooperation must be consistent with the Division's own statutory obligations and enforcement efforts. It is the Division's view that an exchange of information in cases in which both entities are proceeding on basically the same matter is to our mutual benefit. There is a need for the government to provide information to other law enforcement bodies without making a public disclosure.

- Exchange of such information pursuant to this agreement is not a public disclosure under the Freedom of Information Act, 5 U.S.C. 552.
- When confidential information is exchanged it will not be released to the public, or to any third party, without the express permission of the agency providing that information.
- Confidential information means information that may be exempt from disclosure to the public or other unauthorized person under state and federal statutes. Confidential information includes: the identities of persons who have given information to the Department of Labor in confidence or under circumstances in which confidentiality can be implied; any employee statements in WHD enforcement files were all obtained under these conditions; records required to be kept confidential under federal law or regulation. internal opinions and recommendations of federal or state personnel, including (but not limited to) investigators and supervisors; information or records covered by the attorney-client privilege and the attorney-work-product privilege; personal information on living persons; individual identifiable health information; and confidential business information and trade secrets.
- When confidential information is exchanged it shall be used and accessed only for the limited purposes of carrying out activities pursuant to this agreement as described herein. The information shall not be duplicated or redisclosed without the written authority of the agency providing the information (hereinafter the "donor agency") or a court order.
- In addition to the requirements above, Confidential UC information may be exchanged only subject to the confidentiality requirements of 20 CFR 603.4 and any applicable state laws.
- In the event that there is a public proceeding, such as a trial, in which certain records may be used or testimony of WHD's employees sought, WHD requires that the North Dakota State Department of Labor (and Human Rights) notify WHD.
- For information security purposes, information (including paper-based documents and electronic information such as emails and CDs) exchanged pursuant to this Agreement remains the responsibility of the donor agency while in transit. The agencies agree to establish a communication protocol for notifying each agency's designated contact person when information is sent to or received from that agency, including information on the form of the transfer and the media type and quantity when appropriate. An agency expecting to receive information will notify the donor agency if the information is not received as of the next business date following the agreed upon delivery date.
- For information security purposes, after an agency receives information from the donor agency, the donor agency retains no responsibility for any security incidents, inadvertent disclosure, or the physical and information technology safeguards in place for protecting that information by the agency that received it.
- However, in the event that the agency receiving the information experiences a security incident or disaster that results in the suspected or confirmed inadvertent disclosure of the

data exchanged pursuant to this Agreement, the agency experiencing the incident or disaster will send formal written notification to the donor agency's designated contact person within 3 days after detection of the incident or disaster. The written notification will describe the security incident or disaster in detail including what data exchanged pursuant to this Agreement may have been inadvertently disclosed.

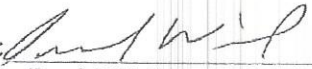
- Liability of the U.S. Government is governed by the Federal Torts Claims Act.

Period of Agreement

- This agreement becomes effective upon the signing of both parties, and will expire 3 years from the effective date. This agreement may be modified in writing by mutual consent of both agencies. The agreement may be cancelled by either party by giving thirty (30) days advance written notice prior to the date of termination. Renewal of the agreement may be accomplished by written agreement of the parties.

This agreement is executed as of the 24th day of May, 2016.

United States Department of Labor Wage and
Hour Division

By: 
Dr. David Weil
Administrator

By: 
Betty R. Campbell
Regional Administrator

South Dakota Department of Labor and
Regulation, Division of Labor and
Management

By: 
Marcia Hultman
Secretary of South Dakota Department of
Labor and Regulation